

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

City of Danville,	:	
Petitioner,	:	
	:	
vs.	:	
	:	
CSX Transportation, Inc., and the State of Illinois	:	T06-0003 Supp.
Department of Transportation,	:	
Respondents	:	
	:	
Petition for an Order regarding a separation of	:	
grades and construction of a new railroad bridge to	:	
replace an existing railroad bridge of said CSX	:	
Transportation, Inc., over FAU Route 6998 (Winter	:	
Avenue), City of Danville, Illinois, apportioning cost	:	
thereof and directing an appropriate portion thereof	:	
to be borne by the Grade Crossing Protection Fund.	:	

PROPOSED SUPPLEMENTAL ORDER

By the Commission:

PROCEDURAL HISTORY

On January 10, 2007, the Illinois Commerce Commission ("Commission"), entered its Order in this matter that required, among other things, the City of Danville ("City") and CSX Transportation, Inc. ("Company"), to construct a highway overpass structure and realign the roadway at the intersection of FAU 6998 (Winter Avenue) and the tracks of CSX Transportation, Inc. (AAR/DOT #353 709T, milepost 121.6-OZA), located in the City of Danville, County of Vermillion, Illinois. In the Commission's January 10, 2007 Order, the project costs of \$12,283,900 were allocated among the Grade Crossing Protection Fund ("GCPF"), the City and the Company. The work was to have been completed on or before March 31, 2009.

PETITION FOR SUPPLEMENTAL ORDER

On July 14, 2008, CSX Transportation, Inc. filed its PETITION FOR ADDITIONAL FUNDING, requesting a Supplemental Order for Additional Funding from the Illinois Commerce Commission. The Company stated in their Petition that their cost estimate was prepared without the benefit of a detailed field survey. As a result, there were items of work, and particularly various construction projects involving grading and the installation of pipes, that were not included in said cost estimates. Furthermore, an additional issue arose subsequent to the Order involving the construction of a parallel

access road to allow for the closing of a road crossing on adjacent property. As a result of the aforementioned construction projects, cost overruns were incurred in the total amount of \$658,000. Attached as Exhibits to the Petition were spreadsheets documenting the items were overrun.

Pursuant to notice as required by law and by the rules and regulations of the Commission, this matter came for hearing on December 4, 2008, before a duly authorized Administrative Law Judge of the Commission at the Commission's offices in Springfield. Appearances were entered on behalf of Petitioner, Respondent, the Illinois Department of Transportation ("IDOT") and by a staff member of the Railroad Section of the Transportation Division of the Commission ("Staff"). Evidence was taken and the case was marked "Heard and Taken".

STAFF'S POSITION

At the hearing, a staff member of the Railroad Section of the Transportation Division of the Commission ("Staff"), presented an Agreed Proposed Supplemental Order. The Parties and Staff determined that the division/re-allocation in the Proposed Supplemental Order was fair, reasonable, and acceptable to all, subject to the Commission approval.

The original Cost Division/Allocation approved by the Commission in its January 10, 2007 Order herein provided as follows:

Work Item	Estimated Cost	GCPF	City	CSX
Construction				
RR Structure/Roadway	\$5,789,000	\$2,316,600	\$3,472,400	\$0
RR Force Account	\$305,000	\$183,000	\$122,000	\$0
Northern Shoo-Fly	\$3,995,000	\$2,290,850	\$505,650	\$1,198,500
Preliminary Engineering				
RR Structure/Roadway	\$1,212,000	\$438,000	\$774,000	\$0
RR Force Account	\$55,000	\$33,000	\$22,000	\$0
Northern Shoo-Fly	\$84,000	\$50,400	\$8,400	\$25,200
Construction Engineering				
RR Structure/Roadway	\$578,900	\$231,660	\$347,240	\$0
RR Force Account	\$120,000	\$72,000	\$48,000	\$0
Northern Shoo-Fly	\$145,000	\$87,000	\$14,500	\$43,500
Total	\$12,283,900	\$5,702,510	\$5,314,190	\$1,267,200

The Cost Division/Re-allocation which takes into consideration cost increase for construction of the parallel access road to allow for closing of a road crossing on adjacent property, proposed by the Parties and Staff for approval of the Commission, is incorporated into the following table:

Work Item	Estimated Cost	GCPF	City	CSX
Construction				
RR Structure/Roadway	\$5,789,000	\$2,316,600	\$3,472,400	\$0
Parallel Access Road	\$658,000	\$394,800	\$65,800 (10%)	\$197,400 (30%)
RR Force Account	\$305,000	\$183,000	\$122,000	\$0
Northern Shoo-Fly	\$3,995,000	\$2,290,850	\$505,650	\$1,198,500
Preliminary Engineering				
RR Structure/Roadway	\$1,212,000	\$438,000	\$774,000	\$0
RR Force Account	\$55,000	\$33,000	\$22,000	\$0
Northern Shoo-Fly	\$84,000	\$50,400	\$8,400	\$25,200
Construction Engineering				
RR Structure/Roadway	\$578,900	\$231,660	\$347,240	\$0
RR Force Account	\$120,000	\$72,000	\$48,000	\$0
Northern Shoo-Fly	\$145,000	\$87,000	\$14,500	\$43,500
Total	\$12,941,900	\$6,097,310	\$5,379,990	\$1,464,600

Staff, the City and IDOT have all reviewed the Supplemental Petition and the evidence presented at the hearing. Staff, the City and IDOT have no objections to the CSX Transportation, Inc.'s request, and also have no objections to the cost division/re-allocation as set forth in Finding (3) below.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, having given due consideration to the record in this case, and the Petition for Supplemental Order and Responses filed thereto, finds that:

- 1) the Commission has jurisdiction over the parties and the subject matter of this proceeding;
- 2) the recitals of fact as set for the in prefatory portion of this Supplemental Order are true and correct and are hereby adopted as findings of fact;
- 3) the original Order of January 10, 2007, should be amended to reflect the following cost division:

Work Item	Estimated Cost	GCPF	City	CSX
Construction				
RR Structure/Roadway	\$5,789,000	\$2,316,600	\$3,472,400	\$0
Parallel Access Road	\$658,000	\$394,800	\$65,800 (10%)	\$197,400 (30%)
RR Force Account	\$305,000	\$183,000	\$122,000	\$0
Northern Shoo-Fly	\$3,995,000	\$2,290,850	\$505,650	\$1,198,500
Preliminary Engineering				
RR Structure/Roadway	\$1,212,000	\$438,000	\$774,000	\$0
RR Force Account	\$55,000	\$33,000	\$22,000	\$0
Northern Shoo-Fly	\$84,000	\$50,400	\$8,400	\$25,200
Construction Engineering				
RR Structure/Roadway	\$578,900	\$231,660	\$347,240	\$0

RR Force Account	\$120,000	\$72,000	\$48,000	\$0
Northern Shoo-Fly	\$145,000	\$87,000	\$14,500	\$43,500
Total	\$12,941,900	\$6,097,310	\$5,379,990	\$1,464,600

- 4) to address any uncertainty concerning the timing of release of the GCPF funds, the City shall have no obligation to make any payments to the Company of the additional funds authorized for payment by this Supplemental Order until such time as the City receives the \$394,800 in additional GCPF funds authorized for expenditure in this Supplemental Order;
- 5) all other terms and conditions of the original Order entered on January 10, 2007, in this case should remain in full force and effect, except as modified herein;

IT IS THEREFORE ORDERED that the original Order dated January 10, 2007, be and are hereby modified to reflect the costs and cost division/re-allocation as set forth in Finding (3) above.

IT IS FURTHER ORDERED that all terms and conditions of the original Order dated January 10, 2007, shall remain in full force and effect except as herein modified.

IT IS FURTHER ORDERED that subject to Sections 18c-2201 and 18c-2206 of the Illinois Commercial Transportation Law, this is a final decision subject to the Illinois Administrative Review Law.

By Order of the Commission this day of , 200 .

CHARLES E. BOX
Chairman